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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,850	08/20/2003	Carlos M. Gonzalez		6598
	7590 06/02/2005			
Carlos M. Gonzalez 3924 Tedrich Boulevard Fairfax, VA 22031			EXAMINER REESE, DAVID C	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/643,850

Applicant(s)

GONZALEZ, CARLOS M.

Examiner

David C. Reese

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Amendment: 14 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This office action is in response to Applicant's amendment filed 4/14/2005.

#### *Status of Claims*

- [1] Claims 1-5 are pending.

#### *Drawings*

- [2] The drawing(s) were previously objected for informalities. In view of Applicant's amendment to the drawings submitted on 4/14/2005, the figures are of better quality and detail, and are in final form, not draft form as before. The new diagram sheets, however, must also be labeled as either "Replacement Sheet" or "New Sheet" (bold and underlined below) to be entered properly.

#### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. **Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).** A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

*Specification*

[3] The disclosure/abstract was previously objected to for informalities. Applicant has successfully addressed these issues in the amendment filed on 4/14/2005. Accordingly, the objection(s) to the specification/abstract been withdrawn and the abstract entered.

*Claim Objections*

[4] Claim 5 is objected to because of the following informalities: minor formality issue with respect to the last line of the instant claim. Currently, the statement beginning with “a method” is ambiguously written. Consider changing to, “said male connector possessing means to attach an earring to an ear, and a locking mechanism to lock in place said male connector to said female connector.”

Appropriate correction is required.

Claims 1, 4-5 are objected to because of the following informalities:

[5] Claim 1 recites the limitation "the back" in the instant Claim. There is insufficient antecedent basis for this limitation in the claim.

[6] Claim 4 recites the limitation "the shape" in the instant Claim. There is insufficient antecedent basis for this limitation in the claim.

[7] Claim 5 recites the limitations "the shape," and “the earring” in the instant Claim. There is insufficient antecedent basis for this limitation in the claim.

In the above rejections, each statement in a claim beginning with the word “the” or “said” must have been discussed before in the instant claim or depending claim, and if not, they are

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considered to be lacking antecedent basis. Correction includes the rewording of certain terms within the claims to provide proper antecedent basis.

*Claim Rejections - 35 USC § 102*

[8] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[9] Claims 1-5 are rejected under 35 U.S.C. 102(b) as clearly anticipated by Ford, US-4,899,556, because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one (1) year prior to the application for patent in the United States.

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The shape and appearance of Ford is identical in all material respects to that of the claimed design, *Hupp v. Siroflex of America Inc.*, 122 F.3d 1456, 43 USPQ2d 1887 (Fed. Cir. 1997).

As for Claim 1, Ford teaches of jewelry with interchangeable ornamentation, for setting different ear attachment methods on earrings; said device is composed of a universal female connector (42 in Fig. 2) and a plurality of removable and selectable male connectors (20 with 50 in Fig. 2, and from column 4, line 46 stating, "Post 50, such as the post normally associated with earrings of the type especially devised for wearers having pierced ears, projects from the rear side 28 of backing member 20. As will be appreciated by those skilled in the art, post 50 is intended to be representative of pins, clips and other attachment means for detachably securing the immediate jewelry device to a selected substrate such as the body or an item of clothing"); where said female connector (42) is comprised of a side (40) that is attached to the back of the earring (38), a female receptacle (45) having only a single entry for receiving one of the selectable male connectors (20), each one of the male connectors (20) being complementary shaped to a shape of said female receptacle (45; via 32 onto 40), such that a selectable male connector (20) is received into the female receptacle (45) of the female connector (42), and a mechanism (49) to lock in place a selectable and attachable male connector (20) to said female connector (42), and where each of the said selectable male connector (20) implements a different method of attaching an earring to an ear (see column 4, beginning with line 46).

As for Claim 2, Ford teaches of a jewelry device wherein the female receptacle (45) is perpendicular to said side (40) that attaches to the earring (38).

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As for Claim 3, Ford teaches of a jewelry device wherein the female receptacle (45) is parallel to said side (40) that attaches to the earring (38).

As for Claim 4, wherein said female connector (42) is comprised of a side (40) that is attached to the back of the earring (38), a female receptacle (45) having only a single entry for receiving a selectable male connector (20 via 32 onto 40), where said male connector (20) being complementary shaped to the shape of said female receptacle, (45; via 32 onto 40) and a locking mechanism (49).

As for Claim 5, Ford teaches of a jewelry device possessing a male connector (20) where said male connector (20) is comprised of a coupling mechanism (via 32 onto 40), wherein said coupling mechanism (32 onto 40) has a complementary shape to the shape of a receiving female receptacle (45) of a female connector (42) that is attached to the back of the earring (38), a method of attaching an earring to an ear (50) and a locking mechanism (49).

Examiner's Note: The above rejection is in response to amendment submitted by applicant 4/14/2005. After further search of the newly amended claims, new art was found to be anticipatory to the instant application. Applicant is also encouraged to review the additional notice of referenced cited for other pertinent art with regard to this type of earring attachment.

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*Conclusion*

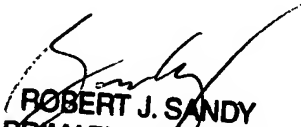
**[10] This action is Non-Final.**

**[11]** Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272- 7082. The examiner can normally be reached on 7:30 am - 5:00 pm M-Th, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,  
David Reese  
Examiner  
Art Unit 3677

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**